

IN THE SUPREME COURT OF THE STATE OF DELAWARE

NOBLE S. BROWN,	§	
	§	
Defendant Below-	§	No. 423, 2004
Appellant,	§	
	§	
v.	§	Court Below---Superior Court
	§	of the State of Delaware,
	§	in and for New Castle County
STATE OF DELAWARE,	§	Cr. A. Nos. IN03-12-0230; 0860
	§	
Plaintiff Below-	§	
Appellee.	§	

Submitted: February 10, 2005

Decided: March 15, 2005

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices

**ORDER**

This 15th day of March 2005, upon consideration of the appellant's brief filed pursuant to Supreme Court Rule 26(c), his attorney's motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) The defendant-appellant, Noble S. Brown, was found guilty by a Superior Court jury of Robbery in the First Degree and Resisting Arrest. Brown was sentenced on the robbery conviction to five years incarceration at Level V, to be suspended after three years for decreasing levels of probation. He was sentenced on the Resisting Arrest conviction to one year incarceration at Level V, to be suspended for 1 year of probation. This is Brown's direct appeal.

(2) Brown's trial counsel has filed a brief and a motion to withdraw pursuant to Rule 26(c). The standard and scope of review applicable to the consideration of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold: (a) the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for claims that could arguably support the appeal; and (b) the Court must conduct its own review of the record and determine whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.<sup>1</sup>

(3) Brown's counsel asserts that, based upon a careful and complete examination of the record, there are no arguably appealable issues. By letter, Brown's counsel informed Brown of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw, the accompanying brief and the complete trial transcript. Brown also was informed of his right to supplement his attorney's presentation. Brown has not raised any issues for this Court's consideration. The State has responded to the position taken by Brown's counsel and has moved to affirm the Superior Court's decision.

(4) This Court has reviewed the record carefully and has concluded that Brown's appeal is wholly without merit and devoid of any arguably appealable

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<sup>1</sup> *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin, Dist. I*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

issue. We also are satisfied that Brown's counsel has made a conscientious effort to examine the record and the law and has properly determined that Brown could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Randy J. Holland  
Justice